

Message Text

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ACTION NEA-10

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FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 0607

UNCLAS NEW DELHI 5038

E.O. 11652: N/A
TAGS: CGEN IN
SUBJECT: INDIAN POLICY TOWARD ADOPTION OF CHILDREN BY FOREIGNERS

REF: STATE 81566

EMBASSY IS AWARE OF NO CHANGES, ACTUAL OR PROPOSED,
IN INDIAN ADOPTION POLICY OR OPERATIVE LEGISLATION,
BASIC PROVISIONS OF WHICH ARE OUTLINED BELOW.

2. ADOPTION IN INDIA IS GOVERNED BY THE HINDU ADOPTION
AND MAINTENANCE ACT, 1956 ACCORDING TO WHICH ADOPTION IS
VALID ONLY AMONG HINDUS. THERE IS NO STATUTE PROVIDING
FOR ADOPTION BY CHRISTIANS OR OTHER NON-HINDUS. HOWEVER,
NON-HINDUS AND FOREIGNERS CAN BE AWARDED "LEGAL GUARDIANSHIP"
OF INDIAN CHILDREN UNDER SECTIONS 7 AND 26 OF THE
GUARDIAN AND WARDS ACT OF 1890. FOR OBTAINING "LEGAL
GUARDIANSHIP" THE ADOPTIVE PARENTS, OR THEIR AGENT IN INDIA
IF PARENTS ARE ABROAD, MUST FILE AN APPLICATION, ACCOMPANIED
BY A BOND EXECUTIVE BY THE ADOPTIVE PARENTS WITH AN INDIAN
SURETY, TO THE DISTRICT COURT UNDER WHOSE JURISDICTION
THE CHILD NORMALLY RESIDES. THE BOND EXECUTED MUST
PROVIDE FOR PROPER MAINTENANCE FOR THE CHILD ABROAD AND
FOR ITS RETURN TRAVEL IF GUARDIANSHIP IS TERMINATED. THE
COURT THEN ISSUES NECESSARY ORDER APPOINTING THE ADOPTIVE
PARENTS AS LEGAL GUARDIANS AND RELEASING THE CHILD TO BE
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TAKEN OUT OF THE COUNTRY.

3. FOREIGNERS ADOPTING INDIAN CHILDREN COMPLETE THE ABOVE
FORMALITY FIRST AND THEN MAKE APPLICATION FOR VISA AND
PASSPORT. EMBASSY HAS PROCESSED SEVERAL CASES OF CHILDREN
OF U.S. ADOPTIVE PARENTS UNDER NONPREFERENCE AND IMMEDIATE
RELATIVE (I-600) CATEGORIES. SUCH CASES ARE

INITIALLY HANDLED BY INDIAN ATTORNEYS TO COMPLETE LEGAL
FORMALITIES WITH INDIAN COURT. HOWEVER IN CASES WHERE I-600
NOT APPROVABLE NONAVAILABILITY OF NONPREFERENCE VISA
NUMBERS HAS LED TO EXTENDED DELAY IN VISA ISSUANCE. PROSPECTIVE
ADOPTORS SHOULD BE AWARE THAT IN ABOVE CASES WITH NO MEDICAL
OR OTHER EMERGENCY ELEMENT VISAS FOR CHILDREN MAY
NOT BE IMMEDIATELY FEASIBLE.
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